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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/917,897	07/31/2001	Masashi Ogawa	Q65704	2025

7590 12/03/2004
SUGHRUE, MION, ZINN,
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Washington, DC 20037-3213

EXAMINER

MORAN, MARJORIE A

ART UNIT	PAPER NUMBER
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1631

DATE MAILED: 12/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/917,897

Applicant(s)

OGAWA ET AL.

Examiner

Marjorie A. Moran

Art Unit

1631

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 12 November 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 4 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: _____.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.

9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.

10. ☒ Other: See the Interview Summary

Marjorie A. Moran
Primary Examiner
Art Unit: 1631

Continuation of 2. NOTE: it is unclear what is intended for a "vinylsulfonyl-type" cross linker, therefore the amendment introduces a new issue under 35 USC 112.

Continuation of 5. does NOT place the application in condition for allowance because: The prior art of SPECHT teaches at least two of the specific cross-linkers comprising vinylsulfonyl groups which are recited in claims 21 and 22 (see col. 9, lines 8-18). As the rejections in the final office action were cumulative (i.e. claims 19 and 20 were rejected over prior art "as applied to" claims 3 and 21, or "as applied to" claims 5 and 22, further in view of SPECHT, claims 21 and 22 were rejected over the combination of references including SPECHT. Thus, even if the after-final amendment were entered, the prior art rejections would be maintained. The arguments with regard to unexpected results are not persuasive for the following reasons: Tables 3 and 5 indicate that varying optical densities and membrane thicknesses are found for digestion of membranes, even when the same concentration of cross-linker is added. All of samples 101-115 and 119-130 comprise 0.6 g/squ meter of cross-linker (BVSE), yet have different "degrees" of digestion. Both of samples 101 and 105 comprise alkali extracted bovine gelatin on a microscope slide, yet sample 101 shows 4 times the optical density of sample 105. Samples 112 and 127 both comprise acid extracted swine gelatin with the difference being the type of support, and sample 127 has half the optical density of sample 112. Applicant argues that increasing amount of cross-linker reduces protease digestion, as shown by (presumably increased) optical density and (presumably greater) membrane thickness. Table 3 does confirm that 1.20 g/sq m of BVSE results in higher optical density and thicker membrane than lower concentrations of BVSE combined with the same type of gelatin on the same support. However, as ALL lower concentrations of BVSE show the SAME results, and different result are found for different combinations of gelatin and support, it is not clear whether digestion is actually related to concentration of BVSE, or whether some critical combination of factors must be reached in order for significant changes in digestion to be detected .